

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
filed in the U.S. District Court District of Minnesota on the following

☐ Trademarks or ☒ Patents. (☐ the patent action involves 35 U.S.C. § 292.);

DOCKET NO. 11cv01714	DATE FILED 6/28/2011	U.S. DISTRICT COURT District of Minnesota
PLAINTIFF Blazek Glass s.r.o, f/k/a J. Blazek SKLO Podebrady s.r.o., and Mr. Dalibor Blazek		DEFENDANT Top Notch Wellness Co
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,488,034		
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT		
CLERK	(BY) DEPUTY CLERK	DATE

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Blazek Glass s.r.o, f/k/a J. Blazek SKLO
Podebrady s.r.o., and
Mr. Dalibor Blazek,

Plaintiffs,

v.

Top Notch Wellness Company, Richard
Lloyd-Roberts d/b/a Top Notch Wellness
Company, Colleen Lloyd-Roberts d/b/a
Top Notch Wellness Company,

Defendants.

COMPLAINT

Come now the Plaintiffs, Blazek Glass s.r.o, f/k/a J. Blazek SKLO Podebrady s.r.o., and Mr. Dalibor Blazek, for their Complaint against Defendants, Top Notch Wellness Company, Richard Lloyd-Roberts d/b/a Top Notch Wellness Company, and Colleen Lloyd-Roberts d/b/a Top Notch Wellness Company, state and allege as follows:

THE PARTIES

1. Plaintiff Blazek Glass s.r.o, f/k/a J. Blazek SKLO Podebrady s.r.o. (“Blazek Glass”), is a business entity of the Czech Republic having a principal place of business at Olbrachtova 600, 29001 Podebrady, Czech Republic.
2. Plaintiff Mr. Dalibor Blazek, is an individual with the legal address of Palachova 688, 29001 Podebrady, Czech Republic.
3. Upon information and belief, Defendant Top Notch Wellness Company (“Top Notch”), is a business entity organized under the laws of South Carolina, having a

principal place of business at 427 Laurel Hills Road, Fort Mill, South Carolina 29707-8720.

4. Upon information and belief, Defendant Richard Lloyd-Roberts (“Richard Lloyd-Roberts”) is an officer or principal of Top Notch and an individual residing at 427 Laurel Hills Road, Fort Mill, South Carolina 29707-8720.

5. Upon information and belief, Defendant Colleen Lloyd-Roberts (“Colleen Lloyd-Roberts”) is an officer or principal of Top Notch and an individual residing at 427 Laurel Hills Road, Fort Mill, South Carolina 29707-8720.

JURISDICTION

6. This is an action for patent infringement arising under the Acts of Congress relating to patents, 35 U.S.C. §§ 271 and 282-85.

7. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332 and 1338(a).

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Defendants have engaged in the distribution, offer for sale, or both, of products embodying the inventions of United States Patent Nos. 6,488,034 and 6,694,988 in this judicial district and throughout the United States.

BACKGROUND

9. Blazek Glass is engaged in the business of making and selling glass nail files to customers around the world in numerous shapes and sizes.

10. On December 3, 2002, United States Patent No. 6,488,034 (“the ‘034 patent”) entitled FILE, PARTICULARLY NAIL FILE, was duly and legally issued by

the United States Patent and Trademark Office (“USPTO”). Mr. Dalibor Blazek is the owner of all right, title, and interest in the ‘034 patent. Blazek Glass is the exclusive licensee of the ‘034 patent.

11. On February 24, 2004, United States Patent No. 6,694,988 (“the ‘988 patent”) entitled FILE, PARTICULARLY NAIL FILE, was duly and legally issued by the USPTO. Mr. Dalibor Blazek is the owner of all right, title, and interest in the ‘988 patent. Blazek Glass is the exclusive licensee of the ‘988 patent.

12. Defendants are each engaged, *inter alia*, in the business of importing, distributing and/or selling glass nail files. Defendants have purposefully imported, distributed, sold and offered for sale such glass nail files throughout the United States.

13. Upon information and belief, Defendants are each directly engaged in the importation, distribution and sale of infringing products as alleged herein. Defendants conduct business via the website www.nailfile.net, which is registered to Defendant Colleen Lloyd-Roberts at 427 Laurel Hill Road, Fort Mill, South Carolina 29707.

14. Upon information and belief, Defendant Richard Lloyd-Roberts is individually directly engaged in the importation, distribution and sale of infringing products as alleged herein. Upon information and belief, Defendant Richard Lloyd-Roberts uses the name Top Notch as an alias to operate his business. Upon information and belief, Richard Lloyd-Roberts is an officer or principal of Top Notch.

15. Upon information and belief, Defendant Colleen Lloyd-Roberts is individually directly engaged in the importation, distribution and sale of infringing products as alleged herein. Upon information and belief, Defendant Colleen Lloyd-

Roberts uses the name Top Notch as an alias to operate her business. Upon information and belief, Colleen Lloyd-Roberts is the president, and an officer or principal, of Top Notch.

16. Defendants were first put on actual notice of their infringing activities on November 19, 2007, via letter from Plaintiffs' counsel.

17. Thereafter, the parties discussed purchasing glass nail files from Plaintiffs throughout 2007 and 2008. Defendants eventually stopped communicating with Plaintiffs and continued selling the accused products.

18. Defendants were again put on actual notice of their infringing activities by way of written correspondence on at least February 5, May 6, June 7, September 21, 2010, and May 12, 2011.

19. Plaintiffs have expended a substantial amount of money and effort in making and selling their patented glass nail files. Defendants' business of importing, distributing and selling infringing glass nail files is in violation of Plaintiffs' patent rights.

COUNT I – INFRINGEMENT OF U.S. PAT. NO. 6,488,034

20. Plaintiffs restate the allegations set forth in paragraphs 1-19 and incorporate them herein by reference.

21. By virtue of his ownership of the '034 patent, Plaintiff Mr. Dalibor Blazek maintains the right to sue thereon and the right to recover for infringement thereof.

22. As exclusive licensee of the '034 patent, Plaintiff Blazek Glass maintains the right to sue thereon and the right to recover for infringement thereof.

23. Defendants have directly infringed the '034 patent through the

manufacture, use, sale, offer for sale, distribution and or importation of certain glass nail files.

24. Defendants have had actual knowledge of the '034 patent and their infringement of this patent and has been and continues to be willful and deliberate.

25. Plaintiffs have been damaged by Defendants' infringement of the '034 patent and will continue to be damaged in the future unless Defendants are permanently enjoined from infringing the '034 patent, contributing to the infringement of the '034 patent, and/or inducing the infringement of the '034 patent by others.

26. Plaintiffs have satisfied the notice provisions of 35 U.S.C. § 287.

COUNT II – INFRINGEMENT OF U.S. PAT. NO. 6,694,988

27. Plaintiffs restate the allegations set forth in paragraphs 1-26 and incorporate them herein by reference.

28. By virtue of his ownership of the '988 patent, Plaintiff Mr. Dalibor Blazek maintains the right to sue thereon and the right to recover for infringement thereof.

29. As exclusive licensee of the '988 patent, Plaintiff Blazek Glass maintains the right to sue thereon and the right to recover for infringement thereof.

30. Defendants have directly infringed the '988 patent through the manufacture, use, sale, offer for sale, distribution and or importation of certain glass nail files.

31. Defendants have had actual knowledge of the '988 patent and their infringement of this patent and has been and continues to be willful and deliberate.

32. Plaintiffs have been damaged by Defendants' infringement of the '988

patent and will continue to be damaged in the future unless Defendants are permanently enjoined from infringing the '988 patent, contributing to the infringement of the '988 patent, and/or inducing the infringement of the '988 patent by others.

33. Plaintiffs have satisfied the notice provisions of 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment that:

- A. Defendants have directly infringed one or more claims of the '034 patent;
- B. Defendants have directly infringed one or more claims of the '988 patent;
- C. Defendants have willfully infringed one or more claims of the '034 patent;
- D. Defendants have willfully infringed one or more claims of the '988 patent;
- E. Defendants, their officers, agents, servants and employees, and those persons in active concert or participation with any of them be enjoined from further infringing, contributing to the infringement, or inducing the infringement of the '034 patent;
- F. Defendants, their officers, agents, servants and employees, and those persons in active concert or participation with any of them be enjoined from further infringing, contributing to the infringement, or inducing the infringement of the '988 patent;
- G. Plaintiffs be awarded transfer and ownership of the domain name nailfile.net;
- H. An accounting be had for the damages arising out of Defendants' infringement of the '034 patent, including treble damages for willful infringement as

provided by 35 U.S.C. § 284, with interest;

I. An accounting be had for the damages arising out of Defendants' infringement of the '988 patent, including treble damages for willful infringement as provided by 35 U.S.C. § 284, with interest;

J. Plaintiffs be awarded their attorneys' fees, costs, and expenses in this action; and

K. Plaintiffs be awarded such other and further relief as this Court may deem necessary and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of all issues so triable.

Respectfully submitted,

**BLAZEK GLASS S.R.O, f/k/a
J. BLAZEK SKLO PODEBRADY S.R.O., and
MR. DALIBOR BLAZEK,
Plaintiffs**

By their attorneys,

Dated: June 28, 2011

By: s/Heather J. Kliebenstein
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Heather J. Kliebenstein #337419
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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Blazek Glass s.r.o, f/k/a J. Blazek SKLO
Podebrady s.r.o., and Mr. Dalibor Blazek

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Heather Kliebenstein, Merchant & Gould, 3200 IDS Center, 80 S.
8th Street, Minneapolis, MN 55402 (612) 332-5300

DEFENDANTS

Top Notch Wellness Co., Richard Lloyd-Roberts d/b/a TNWC.,
Colleen Lloyd-Roberts d/b/a TNWC

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	AGRICULTURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Freedom of Information Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
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V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Secs. 1331, 1332 and 1332(a)

Brief description of cause:
Patent infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/28/2011

SIGNATURE OF ATTORNEY OF RECORD

Heather Kliebenstein

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE